

overrule the Plaintiff's Motion for Default Judgment (ECF 15).

ARGUMENT

LACK OF DUE PROCESS

A notice of removal must be served on all defendants. See, 28 U.S. Code § 1446 (a) and F.R.C.P Rule 11. Since Defendant Terry, Inc. was never served with the notice of removal, there was clearly no process rendered at all and so a default judgment would result in the deprivation of the company's Due Process rights under both the Fifth and the Fourteenth Amendments to the United States Constitution.

GOOD FAITH

Upon receiving notice of the Clerk's Entry of Default and after becoming aware of the pending Motion for Default Judgment, Defendant Terry, Inc., acting in good faith, immediately retained counsel to address the issue. There is a pending Motion to Dismiss that may dispose of the case, thus there is no prejudice to the Plaintiff or to the co-defendant in rescinding the Clerk's Entry of Default and in overruling the Plaintiff's Motion for Default Judgment, so that Defendant Terry, Inc. may file appropriate responsive pleadings and so the case may proceed on its merits.

WHEREFORE, Defendant Terry, Inc. prays that the Court rescind the Clerk's Entry of Default and overrule the pending Motion for Default Judgment.

Respectfully submitted,

TERRY INC.
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 2024, I electronically filed the foregoing Memorandum with the Clerk of this Court using the CM/ECF system, which will automatically send notice of this filing to all counsel of record.

/s/ M. Paul Valois
M. Paul Valois